



M \$ #21

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300

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DIVISION  
2010 NOV 17 PM 4:08

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 5,800,552

Application Number: \_\_\_\_\_

Issue Date: 09/01/1998

Filing Date: 10/21/1994

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

**Also complete the following information, if applicable:**

The above-identified patent:

11/19/2010 DALLEN 00000010 5800552

☐ is a reissue of original Patent No. 01, FC-1599 original issue date 3995.00 OP  
original application number \_\_\_\_\_  
original filing date \_\_\_\_\_

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application \_\_\_\_\_  
filed on \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

November 12, 2010  
Date

Signature

Mark E. Forte for Implantology, LLC  
Typed or printed name of person signing Certificate

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ 1,240	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input checked="" type="checkbox"/> \$ 2,055	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 3,295

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700

## 5. MANNER OF PAYMENT

☒ Enclosed is a check for the sum of \$ 3,995

☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_

☐ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. \_\_\_\_\_

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7. OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No. \_\_\_\_\_

OR

☐ Send refund check

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

November 12, 2010

Date

Mark E. Forte for Implantology, LLC

Typed or printed name(s)

Registration Number, if applicable

11 Oak Lane

Address

973-809-6157

Telephone Number

Pine Brook, NJ 07058

Address

ENCLOSURES:

- ☒ Maintenance Fee Payment  
☒ Statement why maintenance fee was not paid timely  
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)  
☐ Other:

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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature

November 12, 2010

Date

Mark E. Forte for Implantology, LLC

Type or printed name

Registration Number, if applicable

### STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

Thank you for the opportunity to file this Petition.

The transfer of Patent 5,800,552 ("Mechanically Linked Hinged Total Knee Prosthesis") to Implantology LLC occurred on June 30, 2010. The previous owner of this Patent was my father, Mark Robert Forte. Transfer of this (and other patents) was initiated from an Estate Asset plan that occurred within our family this year.

My father never disclosed to me the status of this or any other of his Patents, neither before or after the transfer. From my own due diligence, I very recently discovered a requirement of payments of maintenance fees that was not fulfilled.

A medical situation arose and continues to exist that caused an inadvertent and unavoidable delay of payment of these fees.

My father has recently been diagnosed with a moderate to severe level of Dementia relating to a form of Alzheimer's disease. The slow, degenerative nature of this condition lends credence to the fact that this disorder actually started some years ago and has been getting progressively worse since.

This condition has been the cause of his mental capabilities being affected for some time. This includes his ability to remember recent events and a decreased and/or absence of ability to plan or organize.

Because of his condition, my father was not able to remember to make the required payments, or comprehend the seriousness of events that lack of payments would trigger. He had owned eight other patents, in which maintenance fees were also not made in a timely matter. However this is the only patent that has a suitable, remaining life span which makes reinstatement a serious consideration.

Because of the privacy of this matter and the restriction of disclosures of sensitive medical information as mandated by HIPAA, I have not enclosed any supporting statements from his physicians. However, if your office requires such evidence, I am sure something can be arranged.

With this situation in mind, please accept the enclosed payment of past due maintenance fees. I hope this will satisfy your requirements to enable your office to reactivate this Patent. Thank you very much for your time.

*(Please attach additional sheets if additional space is needed)*